

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 250

Citations Affected: IC 4-4-27-3; IC 6-2.5-7-5.5; IC 15-4-10; IC 26-3-7.

Synopsis: Grain buyers and corn marketing. Conference committee report for ESB 250. Provides that the sales tax deductions for E85 may exceed the current statutory limit to the extent funds are available for reimbursement from the corn market development account. Provides that 25% of the net amount collected in the corn market development account is used for deductions for the sale of E85. Provides that the term "first purchaser" does not include a buyer of corn who buys less than one hundred thousand (100,000) bushels of corn annually for the buyer's own use as seed or feed. (Current law sets the exemption at 50,000 bushels.) Provides that corn assessments do not apply to seed corn. Provides that a producer has 180 days to claim a refund. Provides for an annual audit of the corn marketing council (council). Changes membership on the council. Requires the council to have an annual audit. Provides that the council may audit first purchasers. Provides that in three years if at least 25% of the assessments are refunded, the program terminates. Provides that if the program does not terminate in three years, after the three years, the program terminates if for two consecutive years at least 25% of the assessments are refunded. Specifies that if the corn marketing council requires an audit, the council must pay for the audit. Creates the grain buyers and warehouse licensing agency license fee fund (fund). Provides that fees collected by the grain buyers and warehouse licensing agency are deposited in the fund. (**This conference committee report removes the corn market E85 account. The report provides that the sales tax deductions for E85 may exceed the current statutory limit to the extent funds are available for reimbursement from the corn market development account. The report provides that 25% of the net amount collected in the corn market development account is used for deductions for the sale of E85. The report provides that the term "first purchaser" does not include a buyer of corn who buys less than one hundred thousand (100,000) bushels of corn annually for the buyer's own use as seed or feed. (Current law sets the exemption at 50,000 bushels.) The report provides that in three years if at least 25% of the assessments are refunded, the program terminates. The report provides that if the program does not terminate in three years, after the three years, the program terminates if for two consecutive years at least 25% of the assessments are refunded.**)

Effective: July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 250 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 agriculture and animals.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 4-4-27-3, AS AMENDED BY P.L.1-2006,
- 6 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2007]: Sec. 3. (a) The director of the department of agriculture
- 8 or the director's designee shall charge a fee of ten dollars (\$10) for each
- 9 moisture testing device inspected from each inspection site under this
- 10 chapter.
- 11 (b) All fees shall be deposited in the ~~state treasury~~ **grain buyers**
- 12 **and warehouse licensing agency license fee fund established by**
- 13 **IC 26-3-7-6.3.**
- 14 SECTION 2. IC 6-2.5-7-5.5 IS ADDED TO THE INDIANA CODE
- 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 16 1, 2007]: Sec. 5.5. (a) **Notwithstanding the limit on deductions in**
- 17 **section 5(d) of this chapter, and only to the extent funds are**
- 18 **available to reimburse the state as required under IC 15-4-10-24.5,**
- 19 **a retail merchant is entitled to the deduction allowed under section**
- 20 **5(c) of this chapter.**
- 21 (b) **The department shall annually publish in the Indiana**
- 22 **Register a notice of the amount of funds available for the**

1 **reimbursement required under IC 15-4-10-24.5.**

2 SECTION 3. IC 15-4-10-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies
4 to all kinds and varieties of corn ~~including seed corn~~, marketed or sold
5 as corn by a producer in Indiana except sweet corn, **seed corn**, and
6 popcorn. As used in this chapter, "corn" does not include sweet corn,
7 **seed corn**, or popcorn.

8 SECTION 4. IC 15-4-10-3.5 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2007]: **Sec. 3.5. As used in this chapter, "dean" refers to dean of**
11 **the college of agriculture at Purdue University.**

12 SECTION 5. IC 15-4-10-6 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a)** As used in this
14 chapter, "first purchaser" means a person who is engaged in Indiana in
15 the business of buying ~~grain corn~~ from producers. **The term refers to**
16 **a person buying or otherwise acquiring corn from:**

- 17 **(1) the producer of the corn; or**
- 18 **(2) the Commodity Credit Corporation, if the corn is pledged**
19 **as collateral for a loan issued under a price support loan**
20 **program administered by the Commodity Credit**
21 **Corporation.**

22 **(b)** The term does not include a buyer of ~~grain corn~~ who buys less
23 than ~~fifty thousand (50,000)~~ **one hundred thousand (100,000)** bushels
24 of ~~grain corn~~ annually for the buyer's own use as seed or feed.

25 SECTION 6. IC 15-4-10-8 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. As used in this
27 chapter, "marketing year" means the twelve (12) month period
28 beginning ~~September~~ **October** 1 and ending the following ~~August 31~~.
29 **September 30.**

30 SECTION 7. IC 15-4-10-10.5 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. As used in this chapter,**
33 **"promotion" means:**

- 34 **(1) communication directly with corn producers;**
 - 35 **(2) technical assistance; and**
 - 36 **(3) trade marketing activities;**
- 37 **to enhance the marketing opportunities of corn for corn products**
38 **in domestic and foreign markets.**

39 SECTION 8. IC 15-4-10-10.7 IS ADDED TO THE INDIANA
40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter,**
42 **"research" means any type of study to advance the:**

- 43 **(1) marketability;**
 - 44 **(2) production;**
 - 45 **(3) product development;**
 - 46 **(4) quality; or**
 - 47 **(5) functional or nutritional value;**
- 48 **of corn or corn products, including any research activity designed**
49 **to identify and analyze barriers to domestic and foreign sales of**
50 **corn or corn products.**

51 SECTION 9. IC 15-4-10-12 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The Indiana corn marketing council is established. The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.

(b) The council shall be composed of ~~fifteen (15)~~ **seventeen (17) voting and eight (8) ex officio, nonvoting** members. The elected members from districts listed under section 16(a) of this chapter must be:

- (1) registered as voters in Indiana;
- (2) at least eighteen (18) years of age; and
- (3) producers.

(c) Each elected member of the council must reside in the district identified in section 16(a) of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

SECTION 10. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) If ~~an elected a~~ member of the council **elected or appointed under section 16(a), 16(b), 16(c), or 16(d) of this chapter** ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) When an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) When the office of a council member appointed under section ~~16(c)~~ **16(e), 16(g), or 16(h)** of this chapter ~~to represent first purchaser organizations~~ becomes vacant before the expiration of the member's term of office, the ~~director~~ **dean** shall fill the vacancy by appointing a replacement member who represents ~~a first purchaser organization~~ **the group from which the member was originally appointed**. The appointee shall serve for the remainder of the unexpired term.

(d) When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member

of the same political party as the appointed council member who vacated the office. **the office of a member appointed under section 16(f) of this chapter becomes vacant, the appointing authority who appointed the member shall fill the vacancy.** An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 11. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. ~~but~~ These individuals may not participate in votes taken by the council **but are eligible for reimbursement for traveling expenses.**

(b) **A person appointed under this section serves a term of three (3) years.**

(c) **A person appointed under this section may not serve for more than three (3) consecutive full terms.**

SECTION 12. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

~~DISTRICT 10. All counties in Indiana.~~

(b) ~~The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.~~ **Six (6) council members shall be elected to represent all counties in Indiana.**

(c) **The dean shall appoint one (1) representative of the largest general farm organization in Indiana to serve as a member of the council.**

(d) **The dean shall appoint one (1) representative of the second largest general farm organization in Indiana to serve as a member of the council.**

~~(e)~~ (e) The director shall appoint two (2) representatives of first purchaser organizations to serve as **nonvoting** members of the council.

~~(d)~~ The president pro tempore of the senate shall appoint one ~~(1)~~ member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one ~~(1)~~ member of the house of representatives to serve as a member of the council. (f) **Four (4) members serve on the council, to be appointed as nonvoting members as follows:**

(1) **One (1) member appointed by the president pro tempore of the senate.**

(2) **One (1) member appointed by the minority leader of the senate.**

(3) **One (1) member appointed by the speaker of the house of representatives.**

(4) **One (1) member appointed by the minority leader of the house of representatives.**

The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(g) **The dean or the dean's designee shall serve as an ex officio, nonvoting member of the council.**

(h) **The secretary of agriculture or the secretary's designee shall serve as an ex officio, nonvoting member of the council.**

SECTION 13. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between ~~April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 14. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the ~~director~~, **council**, before June ~~16~~ **30** of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available:

(1) at cooperative extension service offices located in the district; ~~The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing; and~~

(2) via the council's Internet web site.

(c) The council shall allow a producer to request a ballot through the council's Internet web site.

~~(c)~~ (d) No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the director. A name may not be written in on the ballot by a producer. council. All names on the ballot must be listed in alphabetical order based on the producer's surname.

(e) The council shall require that each producer who submits a ballot provides a separate attestation that the person is an eligible producer.

SECTION 15. IC 15-4-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For the purposes of the election of a district council member, the ~~director~~ council shall provide an absentee ballot to every producer who:

(1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election;

and

(2) requests an absentee ballot from the ~~director~~ no council not less than five (5) days and not more than thirty (30) days before the election. and

~~(3) files with the director a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.~~

(b) A producer's absentee ballot is not valid unless the ~~director~~ council receives the ballot and the affidavit from the producer at least two (2) working days before the election.

SECTION 16. IC 15-4-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a district council member shall be conducted by the council in August at voting places located within the district. The winner of an election takes office on the following ~~September~~ October 1.

SECTION 17. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. (a) The council shall do the following:

(1) Elect a ~~chairman, vice chairman,~~ president, vice president, secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

(4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

(6) Annually publish an activities and financial report and audit and present this the report and audit to the director, the dean, and the legislative council. The report and audit must:

(A) be sent to the legislative council in an electronic format

under IC 5-14-6; and

(B) be available on the council's Internet web site.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

~~(+0)~~ (13) Take any other action necessary for the proper implementation of this chapter.

(b) ~~Seven~~ **(7) A majority of the voting members of the council constitutes a quorum. The affirmative votes of at least a majority of the quorum, and at least nine (9) affirmative votes,** are required for the council to take action.

SECTION 18. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. **(a)** The council shall meet at least ~~once in each of the following periods:~~

~~(1) January, February, and March;~~

~~(2) April, May, and June;~~

~~(3) July, August, and September;~~

~~(4) October, November, and December;~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

SECTION 19. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants;~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in any **the same** way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, and research.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

SECTION 20. IC 15-4-10-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24.5. (a) The Indiana corn market development account is established within the state general fund for the ~~purpose~~ **purposes** of market development **and**

reimbursing the state for the E85 retail merchant deduction allowed under IC 6-2.5-7-5(d). The account shall be administered by the council. The account consists of:

- (1) assessments the council receives under this chapter;
- (2) gifts; and
- (3) grants.

(b) The expenses of administering this chapter shall be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses.

(c) Beginning on July 1, 2008, and on July 1 of each year thereafter, the budget agency shall transfer from the account an amount equal to the lesser of:

- (1) twenty-five percent (25%) of the balance of the account on the immediately preceding June 30, before the deduction of any expenses under subsection (b); or
- (2) the sum of all retail merchant deductions allowed under IC 6-2.5-7-5(d), and IC 6-2.5-7-5.5, in the immediately preceding state fiscal year.

The amount transferred under this subsection shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

~~(e)~~ (d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

~~(d)~~ (e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

~~(e)~~ Money in the account is continually appropriated to the council for purposes of this chapter.

SECTION 21. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of one-half cent (\$0.005) per bushel ~~is permitted~~ shall be collected on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.~~ A buyer of corn who purchases more than one hundred thousand (100,000) bushels annually for the buyer's own use as seed or feed, is responsible only for collecting checkoff assessments on corn purchases made after the buyer exceeds the one hundred thousand (100,000) bushel threshold and becomes a first purchased under section 6(a) of this chapter. The rate of the assessment imposed by this section may be ~~increased~~ changed only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The department of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the department of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(c) If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

~~(d)~~ (c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within ~~fifteen (15)~~ **thirty (30)** days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 22. IC 15-4-10-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may secure a refund equal to the amount deducted upon filing a written application.**

(b) A producer's application for a refund under this section

1 must be made to the council within one hundred eighty (180) days
 2 after the state assessment is deducted from the sale price of the
 3 producer's corn.

4 (c) The council shall provide application forms to a first
 5 purchaser for purposes of this section upon request and make
 6 application forms available on the council's Internet web site. Until
 7 July 1, 2009, a first purchaser shall provide an application form to
 8 each producer along with each settlement form that shows a
 9 deduction. After July 1, 2009, a first purchaser shall make
 10 application forms available in plain view at the first purchaser's
 11 place of business.

12 (d) Proof that an assessment has been deducted from the sale
 13 price of the producer's corn must be attached to each application
 14 for a refund submitted under this section by a producer. The proof
 15 that an assessment was deducted may be in the form of a duplicate
 16 or an original copy of the purchase invoice or settlement sheet
 17 from the first purchaser. The claim form and proof of assessment
 18 may be mailed or faxed to the council. The refund form must
 19 clearly state how to request a refund and the address where the
 20 form must be mailed or faxed.

21 (e) If a refund is due under this section, the council shall remit
 22 the refund to the producer not later than thirty (30) days after the
 23 date the producer's application and proof of assessment are
 24 received.

25 SECTION 23. IC 15-4-10-27 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first
 27 purchaser shall keep detailed records of all assessments collected and
 28 remitted under this chapter for at least three (3) years.

29 (b) Upon request, a first purchaser shall supply the council with any
 30 information from records kept under subsection (a).

31 (c) The council may periodically audit a first purchaser's
 32 checkoff assessment and remittance records as kept under
 33 subsection (a). An audit must be conducted by a qualified public
 34 accountant of the council's choosing, and the costs of the audit shall
 35 be paid by the council.

36 SECTION 24. IC 15-4-10-30 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first
 38 purchaser fails to remit the assessments collected during a period
 39 defined in section 26 of this chapter within ~~forty-five (45)~~ **thirty (30)**
 40 days after the end of the period, the council shall contact the first
 41 purchaser and allow the first purchaser to present comments to the
 42 council concerning:

- 43 (1) the status and amount of the assessments due; and
- 44 (2) any reasons why the council should not bring legal action
 45 against the first purchaser.

46 (b) After allowing a first purchaser the opportunity to present
 47 comments, the council:

- 48 (1) ~~shall~~ **may** adjust the amount of the assessments due, if the first
 49 purchaser's comments reveal that the council's figure is
 50 inaccurate; ~~and~~
- 51 (2) may assess a penalty against the first purchaser; ~~of no more~~

than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.

(3) shall:

(A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and

(B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

SECTION 25. IC 15-4-10-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.**

(b) Proceeds of the assessment collected under this chapter may be used to communicate information relating to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

SECTION 26. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 33. (a) For the marketing year beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during the marketing year, the council**

1 shall:

- 2 (1) cease collecting the assessment on January 1 of the
- 3 subsequent year;
- 4 (2) maintain a sufficient amount of money to pay for any
- 5 refunds requested by producers; and
- 6 (3) request that the legislative council have legislation
- 7 prepared to repeal the corn market law.

8 (b) If for the marketing year beginning October 1, 2009, less
 9 than twenty-five percent (25%) of the assessments are refunded,
 10 the council shall review the refunds for each year beginning with
 11 the marketing year beginning October 1, 2010. If refunds exceed
 12 twenty-five percent (25%) in two (2) consecutive marketing years,
 13 the council shall:

- 14 (1) cease collecting the assessment on the subsequent January
- 15 1 on the subsequent year;
- 16 (2) maintain a sufficient amount of money to pay for any
- 17 refunds requested by producers; and
- 18 (3) request that the legislative council have legislation
- 19 prepared to repeal the corn market law.

20 (c) The dean and the council shall report to the legislative
 21 council the amounts collected and refunded. The report to the
 22 legislative council must be in an electronic format under IC 5-14-6.

23 SECTION 27. IC 15-4-10-34 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2007]: Sec. 34. The checkoff assessment and
 26 remittance record form must:

- 27 (1) be in a format that allows a corn producer to submit the
- 28 same form for an assessment refund;
- 29 (2) contain the address and fax number of where the
- 30 assessment refund form may be sent;
- 31 (3) contain information concerning procedures to claim an
- 32 assessment refund; and
- 33 (4) contain any other information determined necessary by
- 34 the council.

35 SECTION 28. IC 26-3-7-6 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The agency may
 37 issue the following licenses:

- 38 (1) A grain bank license may be issued to a person that:
 - 39 (A) stores only grain bank grain;
 - 40 (B) has a storage capacity of not more than fifty thousand
 - 41 (50,000) bushels of grain; and
 - 42 (C) purchases less than fifty thousand (50,000) bushels of
 - 43 grain per year.
- 44 (2) A warehouse license may be issued to a person that:
 - 45 (A) stores grain for hire; and
 - 46 (B) purchases less than fifty thousand (50,000) bushels of
 - 47 grain per year.
- 48 (3) A grain buyer license may be issued to a person that:
 - 49 (A) purchases annually at least fifty thousand (50,000) bushels
 - 50 of grain that are not for the sole purpose of feeding the
 - 51 person's own livestock or poultry;

1 (B) does not store grain for hire; and
 2 (C) offers deferred pricing, delayed payments, or contracts
 3 linked to the commodity futures or commodity options market
 4 in connection with grain purchases.

5 (4) A buyer-warehouse license may be issued to a person that
 6 operates both as a warehouse and as a grain buyer.

7 (b) An applicant shall file with the director a separate application
 8 for each license or amendment of a license at the times, on the forms,
 9 and containing the information that the director prescribes.

10 (c) An initial application for a license must be accompanied by a
 11 license fee as follows:

12 (1) For a grain bank or for a warehouse or buyer-warehouse with
 13 a storage capacity of less than two hundred fifty thousand
 14 (250,000) bushels, two hundred fifty dollars (\$250) for the first
 15 facility and fifty dollars (\$50) for each additional facility.

16 (2) For a warehouse or a buyer-warehouse with a storage capacity
 17 of at least two hundred fifty thousand (250,000) bushels but less
 18 than one million (1,000,000) bushels, five hundred dollars (\$500)
 19 for the first facility and fifty dollars (\$50) for each additional
 20 facility.

21 (3) For a warehouse or a buyer-warehouse with a storage capacity
 22 of at least one million (1,000,000) bushels but less than ten
 23 million (10,000,000) bushels, seven hundred fifty dollars (\$750)
 24 for the first facility and fifty dollars (\$50) for each additional
 25 facility.

26 (4) For a warehouse or buyer-warehouse with a storage capacity
 27 greater than ten million (10,000,000) bushels, one thousand
 28 dollars (\$1,000) for the first facility and fifty dollars (\$50) for
 29 each additional facility.

30 (5) For a grain buyer, including a grain buyer that is also licensed
 31 as a warehouse under the warehouse act, five hundred dollars
 32 (\$500) for the first facility and fifty dollars (\$50) for each
 33 additional facility.

34 The director may prorate the initial application fee for a license that is
 35 issued at least thirty (30) days after the anniversary date of the
 36 licensee's business.

37 (d) Before the anniversary date of the license, the licensee shall pay
 38 an annual fee in an amount equal to the amount required under
 39 subsection (c).

40 (e) A licensee or an applicant for an initial license must have a
 41 minimum current asset to current liability ratio of one to one (1:1) or
 42 better.

43 (f) An applicant for an initial license shall submit with the person's
 44 application a review level financial statement or better financial
 45 statement that reflects the applicant's financial situation on a date not
 46 more than fifteen (15) months before the date on which the application
 47 is submitted. Not more than ninety (90) days after the end of a
 48 licensee's fiscal year, the licensee shall file with the agency a current
 49 review level financial statement or better financial statement that
 50 reflects the licensee's financial situation for the fiscal year just ended.
 51 A financial statement submitted under this section must:

- (1) be prepared by an independent accountant certified under IC 25-2.1;
- (2) comply with generally accepted accounting principles; and
- (3) contain:
 - (A) an income statement;
 - (B) a balance sheet;
 - (C) a statement of cash flow;
 - (D) a statement of retained earnings;
 - (E) the preparer's notes; and
 - (F) other information the agency may require.

The director may adopt rules under IC 4-22-2 to allow the agency to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or other hardship on the applicant or licensee.

- (g) An application for a license implies a consent to be inspected.
 - (h) A person that:
 - (1) does not operate a facility used to store grain for hire;
 - (2) purchases:
 - (A) less than fifty thousand (50,000) bushels of grain per year;
 - or
 - (B) only grain used for the production of the person's own livestock or poultry; and
 - (3) does not purchase grain by:
 - (A) offering deferred pricing;
 - (B) offering delayed payment; or
 - (C) offering other contracts;
- that are linked to the commodity futures or commodity options market;

is not required to be licensed.

(i) Fees collected under this section shall be deposited in the grain buyers and warehouse licensing agency license fee fund established by section 6.3 of this chapter.

SECTION 29. IC 26-3-7-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.3. (a) The grain buyers and warehouse licensing agency license fee fund is established to provide funds for the administration of this chapter. The fund shall be administered by the agency. The fund consists of:**

- (1) the moisture testing device inspection fees collected under IC 4-4-27-3;**
- (2) the licensing fees collected under section 6 of this chapter;**
- (3) gifts and bequests; and**
- (4) appropriations made by the general assembly.**

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not

1 **revert to the state general fund.**

2 SECTION 30. [EFFECTIVE JULY 1, 2007] **IC 6-2.5-7-5.5, as**
3 **added by this act, applies to reporting periods ending after June**
4 **30, 2007.**

5 SECTION 31. [EFFECTIVE JULY 1, 2007] **(a) The definitions in**
6 **IC 15-4-10 apply to this SECTION.**

7 **(b) Money in the Indiana corn market development account**
8 **under IC 15-4-10-24.5 shall be used to pay for the administrative**
9 **costs of the requirements under IC 15-4-10, as amended by this act.**
10 **However, if the money in the Indiana corn market development**
11 **account is insufficient to pay for the administrative costs, the**
12 **council may borrow funds to pay for the administrative costs.**

13 **(c) Before September 1, 2007, the council shall prepare and**
14 **deliver all necessary forms concerning assessment refunds and**
15 **information concerning the operation of the program to all first**
16 **purchasers.**

17 **(d) This SECTION expires July 1, 2008.**

18 SECTION 32. [EFFECTIVE JULY 1, 2007] **(a) The definitions in**
19 **IC 15-4-10 apply to this SECTION.**

20 **(b) Notwithstanding IC 15-4-10-15(b), as amended by this act,**
21 **the three (3) year term limit begins for individuals appointed by**
22 **the council after July 1, 2007.**

23 **(c) This SECTION expires July 1, 2010.**

 (Reference is to ESB 250 as reprinted April 10, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 250

Signed by:

Senator Gard
Chairperson

Representative Grubb

Senator Young R

Representative Gutwein

Senate Conferees

House Conferees